

Congress of the United States
Washington, DC 20515

December 20, 2011

The Honorable Eric Holder
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Attorney General Holder:

According to press reports a settlement between state attorneys general, federal agencies and mortgage servicers arising from improper mortgage foreclosure practices is imminent. The reports describe some of the terms of the rumored settlement, but do not specify what state or federal law claims would be released.

We are writing to urge that the settlement not release violations of the Servicemembers Civil Relief Act (the "SCRA"), and that possible violations of the SCRA be vigorously investigated and prosecuted. The SCRA does not require an absolute moratorium on legal actions against servicemembers, as Congress did during the Civil War, but protects active duty military personnel from being unfairly disadvantaged as a result of their service. The law attempts to assure that a servicemember have actual notice of a foreclosure and the opportunity to assert any defense or seek any relief available under the SCRA or other law.

The Office of Comptroller of the Currency ("OCC") entered into consent orders earlier this year that required an independent review of certain foreclosures in 2009 and 2010, including foreclosures on military personnel, by ten mortgage servicers, all affiliates of OCC-supervised banks. According to an article in the Financial Times, the reviews have disclosed thousands of foreclosures on military personnel in apparent violation of the SCRA.

The OCC reviews, together with the many civil lawsuits by servicemembers, suggest that many, if not most, mortgage servicers simply disregard the SCRA when conducting foreclosures.

Articles about the foreclosures quoted bank officials saying that the servicemembers may have failed to notify the mortgage servicers of their active duty status, and that the banks would consider compensating any servicemember who was harmed by an illegal foreclosure. The law does not require servicemembers to notify mortgage servicers of their active duty status, and servicers can easily ascertain if a homeowner is an active duty servicemember. Nor does the law take a "no harm, no foul" approach to SCRA violations; violation of the SCRA is punishable by up to one year of imprisonment and a fine. In addition, the United States Attorney General may bring a civil action to enforce the SCRA.

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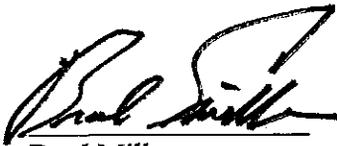
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We pride ourselves in North Carolina on our respect for military service. We owe the men and women who wear our nation's uniform more than empty expressions of thanks for their service.

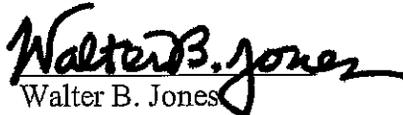
A sweeping settlement that forgives illegal foreclosures on military personnel will almost certainly result in continued disrespect of the legal rights of military personnel. We urge instead a thorough investigation and an effort to enforce the law that will assure that SCRA rights will be scrupulously honored in the future.

Please call either of us if you have any questions or want to discuss this. Thank you.

Sincerely,



Brad Miller
Member of Congress



Walter B. Jones
Member of Congress

CC: The Honorable Roy Cooper
Attorney General, North Carolina